

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

—
No. 6:23-cv-00550
—

Christopher Shane Childers,
Petitioner,

v.

Sheriff Michael Hopkins,
Respondent.

—
ORDER

Petitioner Christopher Shane Childers, proceeding pro se, filed this petition for a writ of habeas corpus. Doc. 1. The case was referred to United States Magistrate Judge John D. Love.

On January 5, 2024, the magistrate judge issued a report recommending that petitioner's petition be dismissed, without prejudice, for petitioner's failure to exhaust required state court remedies. Doc. 14. The magistrate judge further recommended that petitioner's motion for summary judgment (Doc. 11) be denied, and that petitioner be denied a certificate of appealability sua sponte. Doc. 14 at 6. A copy of this report was sent to petitioner at his address. Petitioner filed timely objections. Doc. 17.

The court reviews the objected-to portions of a magistrate judge's report and recommendation de novo. Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). Petitioner admits that he failed to exhaust state court remedies prior to filing this federal petition — as he claims that he "was unaware of the exhaustion requirements. I thought it was the same as a 1983 civil rights lawsuit." Doc. 17 at 1. Petitioner's objections confirm the accuracy of the magistrate judge's report.

Having reviewed the magistrate judge's report de novo, the court accepts the findings and recommendation. Petitioner's objections (Doc. 17) are overruled, and the petition is dismissed, without prejudice, for the failure to exhaust state court remedies.

Petitioner's motion for summary judgment (Doc. 11) is denied. Petitioner also filed a motion to amend his complaint after the magistrate judge issued a report recommending dismissal of the case. Doc. 18 But since petitioner's motion does not address the exhaustion requirement, it is denied.

Petitioner is further denied a certificate of appealability sua sponte. Any other motions which may be pending are denied.

So ordered by the court on April 12, 2024.



J. CAMPBELL BARKER
United States District Judge